

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 07/03/2012
POSITION: Neutral

BILL NUMBER: AB 2179
AUTHOR: Allen, Michael

BILL SUMMARY: Fish and Game: Enforcement and Penalties

Existing law permits the Department of Fish and Game (DFG) to impose civil liability upon any person for specified acts done for profit or personal gain, including unlawfully exporting, importing, possessing, or receiving any bird, mammal, amphibian, reptile, or fish, or any endangered or threatened species. DFG may assess a civil penalty of not more than \$10,000 for each animal, in addition to any other applicable penalty.

This bill would repeal various outdated sections of the Fish and Game Code regarding civil penalties and authorize DFG to impose administrative civil penalties upon any person who has violated any provision of the Fish and Game Code. The bill would also require DFG to adopt regulations that include a fee schedule to provide guidance in assessing these civil penalties and make changes to the hearing and appeals process relating to civil penalties.

FISCAL SUMMARY

The bill would authorize DFG to pursue only those civil penalty cases that the department believes are cost-effective, ensuring the program remains solvent and that the civil penalties awarded offset implementation costs. Furthermore, the bill permits DFG to apply to the courts for a judgment to collect penalties rather than contract with a retired judge or lawyer to serve as the hearing officer for a formal hearing process, which is current practice. The bill could result in significant civil penalty revenue to the Fish and Game Preservation. However, the revenue estimates are unknown at this time.

COMMENTS

The Department of Finance is neutral on the bill. The bill would simplify and update the existing civil penalty chapter of the Fish and Game Code and provide DFG with an additional tool for deterring violations of the Fish & Game Code.

Currently, DFG has limited tools for imposing administrative civil penalties. Except for a few circumstances, individuals violating the Fish & Game Code or regulations promulgated pursuant to the code are subject to criminal prosecution only. Criminal actions are typically prosecuted by local district attorneys that may not prioritize cases involving Fish & Game Code violations. This bill would allow DFG to impose administrative civil penalties for such violations, thus providing an alternative remedy in cases where a criminal action is not prosecuted. An effective civil penalty program administered by the department could produce benefits to the state by deterring violations and providing a supplement to traditional criminal enforcement.

Analyst (0634) J. Silva	Date	Program Budget Manager Karen Finn	Date
Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

AUTHOR

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Code/Department	SO	(Fiscal Impact by Fiscal Year)					
Agency or Revenue	LA	(Dollars in Thousands)					
Type	CO	PROP					Fund
	RV	98	FC	2012-2013 FC	2013-2014 FC	2014-2015	Code
3600/Dept FishGam	SO	No		----- No/Minor Fiscal Impact -----			0200
1310/Fsh Gam Viol	RV	No		----- Revenue increase from Civil Penalties -----			0200
<u>Fund Code</u>	<u>Title</u>						
0200	Fish and Game Preservation Fund						